

REMARKS

Claims 1-48 are all the claims pending in the application. By this Amendment, Applicant editorially amends claims 1-3, 47, and 48. The amendments to claims 1-3, 47, and 48 were made for reasons of precision of language and consistency, and do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. The amendments to claims 1-3, 47, and 48 were not made for reasons of patentability.

Summary of the Office Action

The Examiner allowed claims 41-46. The Examiner, however, objected to claims 1 and 48 for minor informalities. In addition, the Examiner maintained the rejection of claims 1-40 and rejected the previously added claims 47 and 48, under 35 U.S.C. § 103(a).

Claim Objections

The Examiner objected to claims 1 and 48 because of minor informalities. Applicant has revised the claims, and respectfully submits that the claims as now presented no longer include the potential informalities mentioned by the Examiner. Applicant therefore respectfully requests the Examiner to withdraw this objection to claims 1 and 48.

Claim Rejections and Statement of Substance of Interview

Applicant thanks the Examiner for the courteous in person interview on October 25, 2004. An Examiner's Interview Summary Record (PTO-413) was given to the Applicant's Representative on October 25, 2004. The PTO-413 requires applicant to file a Statement of Substance of the Interview. The Statement of Substance of the Interview is as follows:

✓ 2/3

During the Interview, independent claim 1 was discussed in view U.S. Patent No. 6,507,814 to Gao (hereinafter "Gao") and U.S. Patent No. 5,960,389 to Jarvinen et al. (hereinafter "Jarvinen"). An agreement was reached. In particular, the Examiner agreed that the combined teachings of Gao and Jarvinen do not render at least claim 1 unpatentable. Therefore, the Examiner has agreed to perform another search and to issue a Notice of Allowance or a new Non-Final Office Action depending on the results of such search.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

Briefly, in response to this Office Action, Applicant respectfully submits that the combination of Gao and Jarvinen does not teach or suggest a number of unique features of claims 1. For example, Gao and Jarvinen taken alone or in any conceivable combination do not teach or suggest "limiting the value of the smoothed gain based upon an amount of fluctuation calculated from the gain and the smoothed gain," as recited in the independent claim 1.

Prior to the Interview, the Examiner alleged that Jarvinen teaches this exemplary feature of claim 1. Jarvinen, however, teaches comparing the difference between an excitation gain and an excitation gain median to a threshold, and replacing the excitation gain value that exceeds the threshold. Jarvinen, however, fails to teach or suggest using the gain value before the smoothing in limiting the value of the smoothed gain. That is, in Jarvinen, in replacing an excitation gain for values exceeding the threshold, only this excitation gain and the median of this excitation gain is used. Jarvinen does not teach or suggest taking into account the gain value before the smoothing in limiting the smoothed gain. In other words, Jarvinen cannot prevent excessive smoothing by balancing the value before the smoothing and the value after smoothing. In short,

Jarvinen does not teach or suggest limiting the value of the smoothed gain based on the amount of fluctuation calculated from the gain and the smoothed gain.]

Therefore, "limiting the value of the smoothed gain based upon an amount of fluctuation calculated from the gain and the smoothed gain," as set forth in claim 1 is not taught or suggested by the combined teachings of Gao and Jarvinen, which lack using the gain and smoothed gain in limiting the value of the smoothed gain. Based on at least the foregoing exemplary reason, Applicant respectfully submits that the combination of Gao and Jarvinen fails to disclose all of the claimed elements as arranged in claim 1. Therefore, the combination of Gao and Jarvinen clearly cannot render the present invention as recited in claim 1, obvious, as acknowledged by the Examiner during the Interview. Thus, Applicant respectfully requests that the Examiner to reconsider and to withdraw this § 103(a) rejection of claim 1.

Independent claims 2, 3, 15-17, 27-29, 47, and 48 recite similar features to the ones argued above with respect to claim 1, therefore, these arguments are submitted to apply with equal force herein. For at least this exemplary reason, Applicant respectfully submits that claims ~~2, 3, 15-17, 27-29, 47, and 48~~ are allowable, and respectfully requests the Examiner to withdraw this rejection of the claims. Claims 4-14, 18-26, and 31-40 are patentable at least by virtue of their dependency on independent claims 1-3, 15-17, and 27-29.

Allowable Subject Matter

Applicant thanks the Examiner for allowing claims 41-46. Applicant does not acquiesce to any inferences or presumptions drawn from the Examiner's statement regarding the reasons for allowance.

Amendment under 37 C.F.R. § 1.116
U.S. Application No.: Q09/699,435

Attorney Docket No.: Q61542

Conclusion and request for telephone interview

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Howard L. Bernstein
Registration No. 25,665

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE
23373
CUSTOMER NUMBER

Date: November 19, 2004